

ORDINANCE NO. 2024-352

An ordinance of the City of Gainesville, Florida; proposing an amendment to Article VII titled “Gainesville Regional Utilities Authority” of the Charter Laws of the City of Gainesville; providing for submission of the charter amendment to the voters for approval or disapproval at the November 5, 2024 general election; approving the question to be placed on the ballot; providing that this charter amendment shall become effective if approved by the voters; providing directions to the codifier; providing directions to the city clerk; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City of Gainesville, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and the Municipal Home Rule Powers Act; and

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

WHEREAS, Section 166.031(1), Florida Statutes, provides that, “[t]he governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose;” and

WHEREAS, pursuant to Section 5.01 of the City Charter, the City Commission may

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 propose amendments to the City Charter by adoption of an ordinance by four-fifths vote of the
2 membership of the City Commission; and

3 **WHEREAS**, the City Commission has duly considered the charter amendment set forth in
4 this ordinance, and by passage of this ordinance indicates its desire to approve the charter
5 amendment as set forth herein, subject to approval of the electorate at a municipal election; and

6 **WHEREAS**, at least 10 days' notice has been given by publication in a newspaper of
7 general circulation notifying the public of this proposed ordinance and of public hearings in the
8 Auditorium of City Hall in the City of Gainesville; and

9 **WHEREAS**, the public hearings before the City Commission were held pursuant to the
10 published notice described at which hearings the parties in interest and all others had an
11 opportunity to be and were, in fact, heard;

12 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
13 **CITY OF GAINESVILLE, FLORIDA:**

14 The following proposed amendment to Chapter 90-394, Laws of Florida, 1990, as amended
15 by Chapter 2023-348, Laws of Florida, 2023, otherwise known as the Charter Laws of the City of
16 Gainesville, Florida, is approved for submission to the electors of the City of Gainesville, Florida,
17 for approval or disapproval at the election set for Tuesday, November 5, 2024:

18 **PROPOSED AMENDMENT**

19 **SECTION 1.** The proposed amendment to Chapter 90-394, Laws of Florida, 1990, as
20 amended by Chapter 2023-348, Laws of Florida, 2023, otherwise known as the Charter Laws of
21 the City of Gainesville, Florida, which is provided in Section 2 of this ordinance is approved for
22 submission to the electors of the City of Gainesville, Florida, for approval or disapproval at the

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 general election set for Tuesday, November 5, 2024.

2 **Section 2.** Article VII titled “Gainesville Regional Utilities Authority” of the Charter of
3 the City of Gainesville is deleted in its entirety, and amended to read as set forth below.

4 ~~**ARTICLE VII. GAINESVILLE REGIONAL UTILITIES AUTHORITY.**~~

5 ~~**7.01 Establishment.—**~~

6 ~~There is created a regional utilities authority to be known as the “Gainesville Regional Utilities~~
7 ~~Authority” (“Authority”). Gainesville Regional Utilities shall be governed by the Authority upon~~
8 ~~installation of the Authority’s members pursuant to this article. The Authority shall operate as a~~
9 ~~unit of city government and, except as otherwise provided in this article, shall be free from~~
10 ~~direction and control of the Gainesville City Commission. The Authority is created for the~~
11 ~~express purpose of managing, operating, controlling, and otherwise having broad authority with~~
12 ~~respect to the utilities owned by the City of Gainesville.~~

13 ~~**7.02 Definitions.—**~~

14 ~~For the purposes of this article, unless otherwise designated, or the context otherwise requires,~~
15 ~~the following terms have the following meanings:~~

16 ~~(1) “Authority” means the Gainesville Regional Utilities Authority created in this article.~~

17 ~~(2) “City” means the City of Gainesville.~~

18 ~~(3) “City Commission” means the Gainesville City Commission.~~

19 ~~(4) “County” means Alachua County.~~

20 ~~(5) “Customer” means a person or an entity that makes application for and is supplied~~
21 ~~with service by GRU for its ultimate use.~~

22 ~~(6) “Flow of funds” means the sum of required debt service, necessary operations and~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 management expenses, a reasonable contribution to a utility plan improvement fund, identified
2 SLA-related losses, and any other lawful purpose as provided in bond covenants.

3 (7) “Government services contribution” or “GSC” means the portion of revenues
4 generated from rates, fees, assessments, and charges for the provision of utility services by the
5 utility system which is annually transferred by the Authority to the City for use in funding or
6 financing its general government municipal functions.

7 (8) “GRU” means Gainesville Regional Utilities.

8 (9) “Member” means a member of the Authority.

9 (10) “Net revenues” means the gross revenues less fuel revenues.

10 (11) “Service level agreement” or “SLA” means a contract entered into by the Authority
11 that establishes a set of deliverables that one party has agreed to provide another.

12 (12) “Utilities” means the electric utility system, water utility system, wastewater utility
13 system, reuse water utility system, natural gas utility system, communications utility system, and
14 such other utility systems as may be acquired by GRU in the future.

15 7.03 Powers and duties.—

16 (1) The Authority shall have the following powers and duties, in addition to the powers
17 and duties otherwise conferred by this article:

18 (a) To manage, operate, and control the utilities, and to do all things necessary to
19 effectuate an orderly transition of the management, operation, and control of the utilities from the
20 City to the Authority, consistent with this article.

21 (b) To establish and amend the rates, fees, assessments, charges, rules, regulations, and
22 policies governing the sale and use of services provided through the utilities.

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~(c) To acquire real or personal property and to construct such projects as necessary to~~
2 ~~operate, maintain, enlarge, extend, preserve, and promote the utility systems in a manner that~~
3 ~~will ensure the economic, responsible, safe, and efficient provision of utility services, provided~~
4 ~~that title to all such property is vested in the City.~~

5 ~~(d) To exercise the power of eminent domain pursuant to chapter 166, Florida Statutes,~~
6 ~~and to use utility funds to appropriate or acquire property, excluding federal or state property, for~~
7 ~~the purpose of obtaining, constructing, and maintaining utility facilities, provided that title to all~~
8 ~~such property is vested in the City.~~

9 ~~(e) To authorize the issuance of revenue bonds and other evidences of indebtedness of the~~
10 ~~City, secured by the revenues and other pledged funds and accounts of the utility system,~~
11 ~~pursuant to Florida law. Upon resolution of the Authority establishing the authorized form,~~
12 ~~terms, and purpose of such bonds, for the purpose of financing or refinancing utility system~~
13 ~~projects, and to exercise all powers in connection with the authorization of the issuance, and sale~~
14 ~~of such bonds by the City as conferred upon municipalities by part II of chapter 166, Florida~~
15 ~~Statutes, other applicable state laws, and section 103 of the Internal Revenue Code of 1986. Such~~
16 ~~bonds may be validated in accordance with chapter 75, Florida Statutes. The Authority may not~~
17 ~~authorize the issuance of general obligation bonds. Such bonds and other forms of indebtedness~~
18 ~~of the City shall be executed and attested by the officers, employees, or agents of the City,~~
19 ~~including the chief executive officer/general manager (CEO/GM) or chief financial officer of the~~
20 ~~utility system, the Authority has so designated as agents of the City. The Authority may enter~~
21 ~~into hedging agreements or options for the purpose of moderating interest rates on existing and~~
22 ~~proposed indebtedness or price fluctuations of fuel or other commodities, including agreements~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~for the future delivery thereof, or any combinations thereof.~~

2 ~~(f) To dispose of utility system assets only to the extent and under the conditions that the~~
3 ~~City Commission may dispose of such assets pursuant to section 5.04 of Article V.~~

4 ~~(g) To prepare and submit to the City Commission, at least 3 months before the start of~~
5 ~~the City's fiscal year, an annual budget for all Authority and GRU operations, including the~~
6 ~~amount of any transfer to the City. The term of the budget shall coincide with the City's fiscal~~
7 ~~year. The amount of any transfer is subject to the limitations specified in section 7.11.~~

8 ~~(h) To appoint and remove a CEO/GM as provided in this article.~~

9 ~~(i) To recommend, by resolution to the City Commission, the acquisition and operation of~~
10 ~~a utility system not owned or operated by GRU as of the date of transfer of governing authority~~
11 ~~to the Authority.~~

12 ~~7.04 Authority members.—~~

13 ~~(1) There shall be five members of the Authority appointed by the Governor. Each~~
14 ~~member shall be a person of recognized ability and good business judgment as identified by the~~
15 ~~Governor who is expected to perform his or her official duties in the best interests of GRU and~~
16 ~~its customers. Appointments shall be made as follows:~~

17 ~~(a) One member shall be a residential customer with substantial knowledge of GRU, its~~
18 ~~operations, and its history.~~

19 ~~(b) One member shall be a private, nongovernment customer consuming at least 10,000~~
20 ~~kilowatt hours per month of electric usage during each of the previous 12 months. This member~~
21 ~~may be the owner or representative of the customer.~~

22 ~~(c) Three members shall be competent and knowledgeable in one or more specific fields~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 substantially related to the duties and functions of the Authority, including, but not limited to,
2 law, economics, accounting, engineering, finance, or energy.

3 ~~(2) All members of the Authority shall:~~

4 ~~(a) Maintain primary residence within the electric service territory of GRU's electric~~
5 ~~utility system.~~

6 ~~(b) Receive GRU electric utility system service at all times during the term of~~
7 ~~appointment.~~

8 ~~(c) Not have been convicted of a felony as defined by general law.~~

9 ~~(d) Be a qualified elector of the City, except that a minimum of one member must be a~~
10 ~~resident of the unincorporated area of the county or a municipality in the county other than the~~
11 ~~City of Gainesville.~~

12 ~~(3) The composition of the Authority shall be adjusted upon expiration of any member's~~
13 ~~term, or upon any Authority vacancy, to reflect the ratio of total electric meters serving GRU~~
14 ~~electric customers outside the City's jurisdictional boundaries to total electric meters serving all~~
15 ~~GRU electric customers. For example, upon expiration of a member's term or upon an Authority~~
16 ~~vacancy, if the ratio of total electric meters serving customers outside the City boundaries to total~~
17 ~~electric meters serving all electric customers reaches 40 percent, the Governor must appoint a~~
18 ~~second member from outside the City boundaries to serve the next term that would otherwise be~~
19 ~~served by a qualified elector of the City. Conversely, upon expiration of any member's term or~~
20 ~~upon any Authority vacancy, if the ratio subsequently falls below 40 percent, the Governor must~~
21 ~~appoint a qualified elector of the City to serve the next term that otherwise would have been~~
22 ~~served by a resident from outside the City boundaries.~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~7.05 Member nominations and terms.—~~

2 ~~(1) The Governor shall issue a public notice soliciting citizen nominations for Authority~~
3 ~~members within 120 days after the effective date of this article. The nomination solicitation~~
4 ~~period shall remain open for at least 30 days after the date of the public notice.~~

5 ~~(2) The Governor shall appoint initial members to the Authority from among the~~
6 ~~nominees within 60 days after the close of the nomination solicitation period. The initial terms of~~
7 ~~office for the five members shall commence at 12 a.m. on October 1, 2023. The terms of the~~
8 ~~initial appointments shall be as follows: one member shall be designated to serve until 12 a.m. on~~
9 ~~October 1, 2024; one member shall be designated to serve until 12 a.m. on October 1, 2025; one~~
10 ~~member shall be designated to serve until 12 a.m. on October 1, 2026; and two members shall be~~
11 ~~designated to serve until 12 a.m. on October 1, 2027.~~

12 ~~(3) The Governor shall have a citizen nomination solicitation period for at least 30 days~~
13 ~~and appoint members for subsequent terms from among the nominees. Members appointed for~~
14 ~~subsequent terms shall be appointed for 4-year terms commencing at 12 a.m. on October 1 of the~~
15 ~~year in which they are appointed. If a member is appointed to complete an unexpired term, the~~
16 ~~member's term shall commence at the time of appointment and shall continue through the~~
17 ~~remainder of the unexpired term.~~

18 ~~(4) The Governor shall fill any vacancy for the unexpired portion of a term within 60~~
19 ~~days after the vacancy occurs if the remainder of the term exceeds 90 days.~~

20 ~~7.06 Member compensation.—Beginning October 1, 2023, necessary expenses of members~~
21 ~~incurred in carrying out and conducting the business of the Authority shall be paid in accordance~~
22 ~~with Authority policy and procedures, subject to the approval of a majority of the members of~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~the Authority. No supplemental benefits shall be provided for a member position.~~

2 ~~7.07 Authority; oath; organization; and meeting.—~~

3 ~~(1) The Authority shall initially meet at the chambers of the City Commission at 6 p.m.~~
4 ~~on Wednesday, October 4, 2023.~~

5 ~~(2) Before taking office for any term, each member shall be given an oath or affirmation~~
6 ~~by the Mayor or his or her designee similar to the oath or affirmation required of a member of~~
7 ~~the City Commission.~~

8 ~~(3) The first official action of the Authority shall be election of a chairperson and a vice~~
9 ~~chairperson from among its membership.~~

10 ~~(4) The Authority shall meet at least once each month, except in case of unforeseen~~
11 ~~circumstances. All meetings of the Authority shall be noticed and open to the public, and~~
12 ~~minutes shall be kept as required by law, except that meetings related to settlement of then~~
13 ~~existing litigation may be held as allowed by law.~~

14 ~~(5) The GRU general manager or his or her designee shall be responsible for making~~
15 ~~arrangements for and providing adequate notice for the initial meeting of the Authority.~~

16 ~~7.08 Removal and suspension of members.—~~

17 ~~(1) A member may be removed or suspended from office by the Governor in accordance~~
18 ~~with s. 112.501, Florida Statutes. In addition to the grounds for removal set forth therein, a~~
19 ~~member may be removed by the Governor for failure to maintain the qualifications specified in~~
20 ~~section 7.04.~~

21 ~~(2) The Authority may recommend to the Governor that a member be removed or~~
22 ~~suspended from office if it finds, by vote of at least three members, a reasonable basis for~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~removal or suspension on one or more of the grounds set forth in s. 112.501, Florida Statutes, or~~
2 ~~for failure to maintain the qualifications specified in section 7.04. The Authority shall give~~
3 ~~reasonable notice of any proceeding in which such action is proposed and must provide the~~
4 ~~member against whom such action is proposed a written statement of the basis for the proposed~~
5 ~~action and an opportunity to be heard. The member against whom such action is proposed may~~
6 ~~not participate in the Authority's debate or vote on the matter.~~

7 ~~7.09 Management and personnel.—~~

8 ~~(1) A chief executive officer/general manager (CEO/GM) shall direct and administer all~~
9 ~~utility functions, subject to the rules and resolutions of the Authority. The CEO/GM shall serve~~
10 ~~at the pleasure of the Authority. Appointment or removal of the CEO/GM shall be by majority~~
11 ~~vote of the Authority. Until such time as the Authority appoints a CEO/GM, the sitting general~~
12 ~~manager of GRU shall serve as the CEO/GM. A sitting member of the Authority may not be~~
13 ~~selected as the CEO/GM.~~

14 ~~(2) All officers and employees of the City who serve under the supervision and direction~~
15 ~~of the sitting general manager of GRU shall serve under the CEO/GM. The CEO/GM shall have~~
16 ~~the exclusive authority to hire, transfer, promote, discipline, or terminate employees under his or~~
17 ~~her supervision and direction.~~

18 ~~(3) The Authority shall fix the salary of the CEO/GM, and the CEO/GM shall fix the~~
19 ~~salaries of all other employees who serve under his or her direction consistent with the annual~~
20 ~~budget approved by the Authority. The sitting general manager of GRU, as well as all officers~~
21 ~~and employees of the City who, by virtue of this article, become subject to the supervision and~~
22 ~~direction of the CEO/GM, shall continue without any loss of rights or benefits as employees~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~under the pension plans and civil service merit system of the City existing as of the creation of~~
2 ~~the Authority.~~

3 ~~7.10 General provisions.—~~

4 ~~(1) The City and the Authority shall perform all acts necessary and proper to effectuate~~
5 ~~an orderly transition of the governance, operation, management, and control of all utility~~
6 ~~systems, properties, and assets held in the possession of GRU as of January 1, 2023, to the~~
7 ~~Authority, including, but not limited to, the creation of such instruments as are necessary for the~~
8 ~~Authority to function in accordance with this article. Notwithstanding the reorganization of the~~
9 ~~governance structure of the management of the utility system as provided in this section, the~~
10 ~~utility system shall continue to be operated as a single enterprise and there shall be no change to~~
11 ~~the ownership of the utility system.~~

12 ~~(2) All City ordinances, policies, rates, fees, assessments, charges, rules, regulations, and~~
13 ~~budgets related to operation of the utilities shall remain in effect until such time as the Authority,~~
14 ~~pursuant to the powers granted in this article, modifies any such item. In the event that any City~~
15 ~~charter provision, ordinance, resolution, decree, or any part thereof conflicts with the provisions~~
16 ~~of this article, the provisions of this article shall govern. This subsection is not intended to and~~
17 ~~shall not interfere with existing contractual arrangements between the City and county,~~
18 ~~regardless of whether such arrangements are reflected in charter provisions, ordinances,~~
19 ~~resolutions, decrees, or any part thereof.~~

20 ~~(3) All rights, responsibilities, claims, and actions involving GRU as of the transfer to the~~
21 ~~Authority shall continue, except as may be modified by the Authority under the powers granted~~
22 ~~by this article and consistent with law.~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~(4) No franchise, right of way, license, permit or usage fee or tax may be levied by the~~
2 ~~City upon the Authority or the utilities unless allowed by general law.~~

3 ~~(5) Any utility advisory board created by the City Commission shall have no role with~~
4 ~~respect to the Authority.~~

5 ~~(6) No member of the Authority shall be individually responsible for Authority debts or~~
6 ~~liabilities.~~

7 ~~(7) The Authority shall develop an ethics policy and a code of business conduct that shall~~
8 ~~be reviewed at least biennially.~~

9 ~~(8) In order to provide for the transitional administrative needs and orderly compliance~~
10 ~~with the provisions of this act, the chairperson of the Authority or his or her designee is~~
11 ~~authorized to execute documents required for the transition.~~

12 ~~7.11 Limitation on government services contribution.—~~

13 ~~(1) MAXIMUM CAP ON GSC.— For any fiscal year, the GSC may not exceed aggregate~~
14 ~~utility system net revenues less flow of funds.~~

15 ~~(2) DEBT SERVICE AND AVOIDANCE.— Any remaining funds, after deductions for~~
16 ~~flow of funds and GSC, shall be dedicated to additional debt service or utilized as equity in~~
17 ~~future capital projects.~~

18 ~~7.12 Limitation on utility directives.— The Authority and the CEO/GM, in making all policy and~~
19 ~~operational decisions over the affairs of the utility system as contemplated under the provisions~~
20 ~~of this act, shall consider only pecuniary factors and utility industry best practices standards,~~
21 ~~which do not include consideration of the furtherance of social, political, or ideological interests.~~
22 ~~Appropriate pecuniary factors and utility industry best practices are those which solely further~~

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 ~~the fiscal and financial benefit of the utility system and customers. This provision does not~~
2 ~~prohibit the establishment and application of rate structures based on utility usage.~~

3 **Section 3.** The following ballot title and question is approved for submission to the
4 electors of the City of Gainesville, Florida, for approval or rejection at the election set for Tuesday,
5 November 5, 2024:

6 CITY OF GAINESVILLE CHARTER AMENDMENT

7 LOCAL PUBLIC UTILITIES

8 “SHALL THE CITY OF GAINESVILLE CHARTER BE AMENDED TO
9 DELETE ARTICLE VII, ELIMINATING THE GOVERNOR-APPOINTED
10 GAINESVILLE REGIONAL UTILITIES AUTHORITY AND ITS APPOINTED
11 ADMINISTRATOR THAT MANAGE, OPERATE AND CONTROL THE CITY
12 OF GAINESVILLE’S LOCAL PUBLIC UTILITIES, AND PLACING THAT
13 RESPONSIBILITY WITH THE ELECTED CITY COMMISSION AND
14 CHARTER OFFICER; AND ELIMINATING LIMITATIONS ON THE
15 GOVERNMENT SERVICES CONTRIBUTION AND UTILITY DIRECTIVES,
16 AS PROPOSED BY ORDINANCE NO. 2024-_____?”

17 **Section 4.** The Supervisor of Elections is requested to place this ballot title and question
18 on the November 5, 2024 general election ballot.

19 **Section 5.** In the event that the charter amendment proposed by Section 2 of this
20 Ordinance is approved by affirmative vote of a majority of votes cast by the electors of the City of
21 Gainesville, Florida at the November 5, 2024 election, then: 1) the codifier is directed to
22 incorporate the amendments stated in Section 2 of this Ordinance in the Charter Laws of the City

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 of Gainesville; and 2) the City Clerk is directed to file a true copy of this ordinance with the
2 Florida Department of State.

3 **Section 6.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
4 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
5 the validity of the remaining portions of this ordinance.

6 **Section 7.** All ordinances or parts of ordinances in conflict herewith are to the extent of
7 such conflict hereby repealed.

8 **Section 8.** This ordinance shall become effective immediately upon final adoption.

9 **PASSED AND ADOPTED this ____ day of _____, 2024.**

10
11
12
13 _____
14 HARVEY L. WARD, JR.
15 MAYOR

16
17 ATTEST: Approved as to form and legality
18

19
20 _____
21 KRISTEN J. BRYANT
22 CITY CLERK

23 _____
24 DANIEL M. NEE
25 CITY ATTORNEY

23 This ordinance passed on first reading this ____ day of _____, 2024.

24 This ordinance passed on second reading this ____ day of _____, 2024.
25

CODE: Words ~~stricken~~ are deletions; words underlined are additions.